

APPLICANTS: Wagle et al.

SERIAL NUMBER: 10/038,117

REMARKS

Upon entry of the present amendment, claims 1-3, 5 and 11 are pending in this application. Claims 1-3 and 5 have been amended and claim 11 has been added to recite the compounds and species elected in the Applicants' Response to Election of Species Requirement filed July 21, 2003 and claims 4 and 6-10 have been cancelled as drawn to a non-elected invention. Applicants reserve the right to pursue the subject matter of these claims in a continuing application. Support for new claim 11 and amended claim 3 can be found throughout the specification and at page 30, lines 12-14. No new matter is added.

CLAIM REJECTIONS

Rejection Under 35 USC § 112, Second Paragraph

Claims 1-5 and 7 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner states that the base claim is not clear for reciting "a method of treating or ameliorating an indication of the invention." Applicants have cancelled claims 4 and 7 and amended claim 1 to delete the phrase "an indication of the invention" and recite "hypertension" as elected by the Applicant. Applicants submit that amended claim 1 and claims 2, 3, 5 and new claim 11, which properly depend from claim 1, are clear and definite and respectfully request withdrawal of the present invention.

Rejection Under 35 USC § 102

Claims 1-5 and 7 have been rejected under 35 U.S.C. § 102(b), as being anticipated by U.S. Patent No. 5,932,575 to Yanaka et al. ("Yanaka"). The Examiner states that Yanaka teaches a method of treating cardiac diseases with a compound which encompasses some of the compounds encompassed by Formula I of the instant application. Applicants have cancelled claims 4 and 7 and traverse the rejection as it applies to pending claims 1-3, 5 and 11, as amended and added herein.

Applicants have amended claims 1-3, 5 and added new claim 11 to be drawn to a 5 membered heterocycle which is an isoxazole and is not a dihydro or tetrahydro analog thereof, as

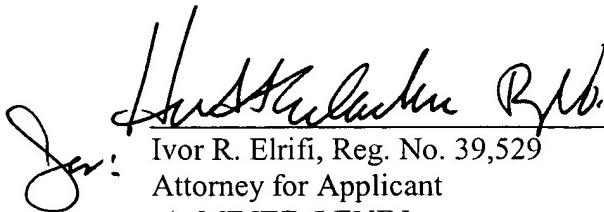
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elected by the Applicant. Yanaka merely discloses 6 membered heterocycles which can be substituted at various positions. Although one or more of the disclosed R groups for the 6 membered heterocycle can comprise a 5 membered heterocycle ("a 3-7 membered saturated aliphatic cyclic amino group optionally interrupted with one or more nitrogen atom, oxygen atom or sulfur atom"; *See*, the specification and specifically column 25, lines 16-18), Yanaka specifies that this 5 membered ring is saturated, whereas the compounds of the instant invention are isoxazoles, which contain an unsaturated 5 membered ring. In fact, the 3-7 membered saturated aliphatic cyclic amino group optionally interrupted with one or more nitrogen atom, oxygen atom or sulfur atom disclosed in Yanaka can describe a tetrahydrooxazole or a tetrahydroisoxazole, compounds which are not encompassed by the instant invention. As such, Applicants submit that pending claims 1-3, 5 and 11 as amended and added herein are not anticipated by Yanaka and respectfully request that this rejection be withdrawn.

CONCLUSION

On the basis of the foregoing amendment and remarks, Applicants respectfully submit that the pending claims are in condition for allowance and a Notice of Allowance for the pending claims is respectfully requested. If there are any questions regarding this application that can be handled in a phone conference with Applicants' Attorneys, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Respectfully submitted,


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